

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON HIGHWAYS AND TRANSPORTATION**

**Call to Order:** By **CHAIRMAN ARNIE MOHL**, on February 18, 1999 at 3:15 P.M., in Room 405 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Arnie Mohl, Chairman (R)  
Sen. Ric Holden, Vice Chairman (R)  
Sen. Mack Cole (R)  
Sen. Bob DePratu (R)  
Sen. John Hertel (R)  
Sen. Reiny Jabs (R)  
Sen. Greg Jergeson (D)  
Sen. Glenn Roush (D)  
Sen. Debbie Shea (D)  
Sen. Spook Stang (D)  
Sen. Daryl Toews (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Phoebe Olson, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Informational Meeting with US Senator Max Baucus  
Hearing(s) & Date(s) Posted: SB 464, 2/12/1999  
Executive Action: SB 421

**INFORMATIONAL MEETING**

**SENATOR MOHL**, introduced **SENATOR MAX BAUCUS**.

**SENATOR BAUCUS**, said he was there to listen to concerns people might have in regard to the highway program or any general transportation issues. He explained how well Montana had done with the passage of TEA-21, about a 60% increase. He said the Montana Department of Transportation did a great job in helping get the bill passed. He explained the provisions of TEA-21 and the Trust Fund.

**SENATOR JERGESON**, said the Transportation Committee had passed out a joint resolution requesting three corridors be added in Montana to the economic trade corridors. He recognized that it may not be an easy sell but he thought it was worth the effort to deliver the message.

**SENATOR BAUCUS**, said they would push real hard to get that done.

**SENATOR MOHL**, asked when the additional 14 million would take effect.

**SENATOR BAUCUS**, said it was already being collected, he didn't know for sure exactly when they would see it.

**Marv Dye**, said they thought they would see it either in fiscal year 99 or 2000.

**SENATOR MOHL**, asked if they were prepared to spend it because there were some concerns that federal funds would be sent back.

**SENATOR BAUCUS**, said we got a good deal for the next six years. He suggested that we use the money wisely recognizing that we might not be as fortunate the next go-around.

**SENATOR JERGESON**, asked if there would be additional revenue from the Montana Gas tax.

**Marv Dye**, said he believed they would see an increase.

**SENATOR BAUCUS**, said gas prices would probably go up and we might not get as much in the future.

**Rose Magnuson**, asked if Senator Baucus thought they would continue to have funds available for Scenic Byways programs.

**SENATOR BAUCUS**, said he thought so, but couldn't say for sure.

**SENATOR MOHL**, said they had a bill go through committee about federal contracts that the Federal Highway Agency opposed. He said that he was concerned that contracts were being awarded to foreign countries when in the contracts it said you had to buy American. He thought it was a double standard.

**SENATOR BAUCUS**, said the buy America provisions were present in many laws. He said it did get sticky as the world became more complex with global trade increases. He maintained that he would have to investigate it further.

**SENATOR HOLDEN**, said the bill they had passed, essentially said they couldn't give contracts to foreigners. He said they heard testimony about people from Montana trying to bid on contracts in Canada who had received the run around. He rendered that Jan Brown had come into the hearing and threatened that if the bill were passed, then they would cut off federal highway funding. He maintained that really wasn't fair.

**SENATOR BAUCUS**, said it was very sticky. He maintained he did not know enough. To be fair he would have to find out exactly what was happening, before he could say what was right and what wasn't. He promised that he would investigate the matter.

**SENATOR HOLDEN**, said they heard another federal mandate requiring fingerprinting and social security number reporting, for all applicants who would work in the health care field. He said most of the members on the Senate Judiciary Committee shook their heads because they had gone through this two years ago and they had tried to send the message that we don't want all these requirements, but it wasn't being heard.

**SENATOR BAUCUS**, said he was getting the message loud and clear now. He said he was unaware of the fingerprint problem. He agreed that it sounded unnecessarily restrictive. He said he would look more into it.

**SENATOR MOHL**, thanked **SENATOR BAUCUS** for coming and for all his hard work to get Montana such good highway funding.

**SENATOR BAUCUS**, expounded the new highway program would bring 4,000 new jobs to Montana. He thanked everyone for the comments and promised to look into their concerns.

#### HEARING ON SB 464

Sponsor: **SENATOR BARRY SPOOK STANG SD 36, ST Regis**

**Proponents:**

**Marv Dye, MT Department of Transportation**  
**John Augustine, Conoco**  
**Jeff Feds, General Manager, MT Telecommunication Association**  
**Barb Ranf, US West**  
**Gail Abercrombie, MT Petroleum Association**  
**Mike Strande, MT Independent Rural Telephone Companies**

**Opponents:** none

**Opening Statement by Sponsor:**

**SENATOR STANG**, said basically the short one page bill would require the Department of Transportation to allow a location of pipe lines in the highway right-of-ways under certain conditions. He said there were many amendments to the bill, and he had asked that the bill be put on the list that didn't have to meet transmittal deadlines. He said he had worked closely with the pipeline companies to try to find a solution to the shut down of the Yellowstone Pipeline between Missoula and Thompson Falls. He envisioned a solution that didn't have them going through peoples' property when it wasn't necessary and in order to do that it may be necessary to use the interstate or highway right-of-way. The Department worked out some amendments that would give all utilities the ability to use the highway right-of-way for a fee or some sort of compensation. He said if this bill was done properly it could be a win situation for everyone involved.

**Proponents' Testimony:**

**Marv Dye, MT Department of Transportation**, said they had a short time to work on this bill, but they were committed to working out the differences that existed. He maintained that the Department supported the concept. He said this bill would allow them to bring pipelines and utilities into the interstate right-of-ways. He maintained they had one of the best facilitators in government on their staff who was going to get everyone together to work out the differences. Hopefully, they would be back in front of the committee with a solution that was right for everyone. He made himself available to answer questions.

**John Augustine, Conoco**, said they supported the bill.

**Jeff Feds, General Manager, MT Telecommunication Association,** said he represented telephone companies across the state. He said they were willing to work with those involved to amend the bill to everyone's satisfaction.

**Barb Ranf, US West,** said they had some serious concerns about the amendments. She said they would talk with those concerned to work out their concerns.

**Gail Abercrombie, MT Petroleum Association,** said this option would be a benefit. She maintained it would be another option for people who had property right disputes.

**Mike Strande, MT Independent Rural Telephone Companies,** said they were not worried about the bill until the amendments were suggested. He said the underlying philosophy was good and there were significant benefits. He said they would be very committed to working with the Sponsor and the Department to come up with acceptable amendments to the bill.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SENATOR SHEA,** asked if they would wait to review the amendments until an agreement was reached between the parties.

**SENATOR STANG,** said he believed it would be easier to do that.

**SENATOR HOLDEN,** asked how the bill would effect highways going through Indian reservations.

**Marv Dye,** said he believed that the Department owned all of the right-of-way on the reservations so it should not be an issue.

**SENATOR COLE,** said there was not much they could do with the bill until the sponsor came in with the amendments.

**SENATOR STANG,** said the Department would not be as happy with the bill as it was introduced. He said he had the insurance that this bill would be one that didn't have to meet transmittal deadlines and that would give them time to work things out.

**SENATOR JABS,** asked who had the authority to negotiate these on the interstates.

**Marv Dye,** said it was his understanding that they would have to get concurrence with the federal highways and the transportation commission, and maybe others.

**SENATOR MOHL**, asked if at the present time if there were any utilities put into the interstate right-of-way.

**Gary Gilmore**, said that when the interstate was built some pipelines were put in underneath perpendicularly to center line. Nothing went longitudinally inside the right-of-way.

**SENATOR MOHL**, asked if they charged the utilities to use their right-of-way on secondary and primary highways.

**Gary Gilmore**, said they were allowed to be there by law without payment.

**SENATOR MOHL**, asked if they were to reconstruct the highway, if we paid them 100% to move utilities on state right-of-way.

**Gary Gilmore**, said they would pay 75% of the cost of relocation.

**SENATOR MOHL**, summarized then that the right-of-way was given to them without charge and then 75% of their relocation costs were paid.

**Gary Gilmore**, replied that was correct.

**Closing by Sponsor:**

**SENATOR STANG**, said this bill would allow the tax payers to recoup some of the cost of buying the right-of-way, and would not be paying the cost of moving the utilities when reconstruction happened if they ran longitudinally with the highway. He said he thought it was a win win situation for the State of Montana, the utility companies and property owners. He hoped to have the amendments when they met again, so the committee could ask further questions.

**EXECUTIVE ACTION ON SB 421**

**Motion:** **SEN. COLE** moved that **SB 421 DO PASS.**

**Motion:** **SEN. SHEA** moved that **AMENDMENT 42101 Numbers 1 through 5 DO PASS.**

**Discussion:**

**Connie Erickson** explained the amendment. **EXHIBIT(his40a01)**

**SENATOR JABS**, asked for explanation on line 26.

**Connie Erickson**, said on line 25 and 26 the new language would read, "factors to be considered in a localities corridor management plan".

**Vote:** Motion **carried unanimously.**

**Motion:** SEN. HOLDEN moved that **AMENDMENT 42101 NUMBER 6 DO PASS.**

**Discussion:**

**SENATOR STANG**, asked if **SENATOR HOLDEN** still wanted to include outdoor advertising.

**SENATOR HOLDEN**, said he believed they were a big part of this and it was important to have them as part of the advisory council.

**Motion:** SEN. HOLDEN moved **THAT ON LINE 26 AFTER THE WORD TRANSPORTATION THE WORD COMMERCE AND OUTDOOR ADVERTISING BE INSERTED.**

**SENATOR STANG**, clarified the amendments **SENATOR HOLDEN** had offered.

**SENATOR JABS**, wondered why they were including outdoor advertising when that was such a specific group and the others were so broad.

**SENATOR SHEA**, asked Rose Magnuson if it had been discussed previously.

**Rose Magnuson**, said they were strongly in favor of leaving the advisory committee a technical committee. She did agree that the Chamber of Commerce should be included.

**SENATOR HOLDEN**, asked if a highway was designated as a Scenic Highway, if no new advertising was allowed for the business along that route.

**Rose Magnuson**, said they could have on premise advertising, but could not have new billboards erected.

**SENATOR MOHL**, said he thought it still had to be in the bill. He referenced material he had concerning signs on scenic byways.

**Vote:** Both **SENATOR HOLDEN'S** Motions **carried unanimously.**

**Motion:** SEN. DEPRATU moved that **SB 421 DO PASS AS AMENDED.**

**Discussion:**

**SENATOR TOWES**, said he had bigger problems with this bill. He said every time he had done something like this it had come back to haunt him. He thought this would eat up a ton of highway money and should not be passed.

**SENATOR JABS**, said there were Scenic Byways all over the country. He maintained that tourism was the second biggest industry in the state, and he thought this might keep tourists in the state a little longer.

**SENATOR HOLDEN**, said he would like to illuminate the reasons why he did not favor this particular piece of legislation. He believed that if someone were going to open a mine or clear cut an area people could use the scenic byway to stop them because there was nothing in the bill that said they couldn't. He also thought it was critical that the department was allowed to spend any funds appropriated by the commissions. In his district there was a state highway that still had gravel on it. He said the pressure that could be exerted on the commission to spend those funds on scenic byways instead of needed road repairs. He affirmed that he would still vote against the bill.

**SENATOR COLE**, said he was unsure how he was going to vote but said the committee should read the whole sentence on line 2 of page 4.

**SENATOR HOLDEN**, reminded the committee that before you could get the money you had to have a twenty percent match.

**SENATOR JERGESON**, said the \$30,000 dollars constituted the 20% match. He said the commission would not be able to decide to spend state gas tax revenues to the program beyond the amount which was appropriated by the legislature. He didn't understand the concern over this.

**SENATOR SHEA**, asked **SENATOR HOLDEN** to expound a little more on his concerns.

**SENATOR HOLDEN**, said the testimony had made an effective point that once you designate a scenic highways system, you have made a constituency group dedicated to the preservation of that Scenic highway to exist as it did at the time it was determined it should be put into that program. Any alterations from that program in later years would serve as an alteration of how they viewed it at the time it was put in place.



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**SENATOR JERGESON**, said he didn't see the boogy man in the bill that everyone else was seeing and he thought it should be passed.

**SENATOR HERTEL**, said legislators in the future would still have control on the money. This year they allotted \$30,000. The next legislature would have to appropriate it from then on.

**SENATOR TOWES**, said there was a chance it could get lost in the fog, the appropriations process was very complicated, and it could slip through with out being noticed.

**SENATOR SHEA**, asked how they would define private property.

**SENATOR HOLDEN**, said that would be decided when someone took you to court.

**SENATOR JERGESON**, said anyone who came in with a suit about private property rights, the burden was on them.

**SENATOR TOWES**, said it would still cost you money to defend yourself.

**SENATOR MOHL**, said that highway 191 was a scenic byway and they were having trouble completing maintenance. He said if a scenic route was designated and it went to rebuilding another group of people would be determining whether they would allow you to rebuild that section of road and to what standards. He was also concerned about accommodating commercial traffic, logging trucks and access to businesses. He conveyed that he would vote against the bill.

**Vote:** Motion **carried 6-5.**

**ADJOURNMENT**

Adjournment: 4:43 P.M.

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SEN. ARNIE MOHL, Chairman

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PHOEBE OLSON, Secretary

AM/PO

**EXHIBIT** (his40aad)